

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DYE SEED, INC.,

Plaintiff,

-vs-

FARMLAND MUTUAL INSURANCE
COMPANY,

Defendant.

NO. CV-12-0218-LRS

ORDER DENYING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT

BEFORE THE COURT is Plaintiff's Motion For Partial Summary Judgment (ECF Nos. 40) filed on July 1, 2013. A telephonic oral argument was held on September 26, 2013. Brian Sheldon participated on behalf of the Plaintiff; Toni Anders participated on behalf of Defendant. At the conclusion of the hearing, the Court ruled that because the reasonableness and legal significance of Defendant Farmland's actions are material issues before the court, summary judgment in Dye Seed's favor is inappropriate.

The Court also briefly discussed, at the hearing, Defendant's pending motion for reconsideration (ECF No. 75) and the existence of overlapping contentions found in the instant motion and opposition thereto.

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1 Defendant's motion for reconsideration asserts that the Court
2 awarded Plaintiff *Olympic Steamship*¹ attorney fees incurred Plaintiff's
3 suit against its insurer. However, the current state of the record and
4 the Defendant's briefing confirms that the fees awarded in the Court's
5 Order Re Award of Attorney's Fees and Costs (ECF No. 70) arose solely as
6 the result of Plaintiff's defending against Scotts Amended Federal
7 Complaint filed November 12, 2010, and not as reimbursement for fees
8 incurred by Plaintiff's in suing its insured.

9 Nonetheless, given Defendant's having raised the argument that
10 Plaintiff provided late notice of the claim, and the Court's having
11 denied Plaintiff's motion for partial summary judgment at the September
12 26, 2013 hearing which involves overlapping contentions, the Court is
13 **VACATING** its Order Re: Award of Attorney's Fees and Costs (ECF No. 70)
14 pending a full hearing at trial on all matters which remain at issue in
15 this litigation. The Court's Order Granting Plaintiff's Motion for
16 Partial Summary Judgment (ECF No. 34) entered on June 19, 2013 concerning
17 the existence of insurance coverage for defense of the Amended Federal
18 Complaint remains in full force and effect.

19 Accordingly,

20 **IT IS ORDERED** that:

21 1. Plaintiff's Motion for Partial Summary Judgment, **ECF No. 40**, is
22 **DENIED**.

23 2. Defendant's Motion For Reconsideration, **ECF No. 75**, is **GRANTED**,
24 **in part**.

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¹*Olympic S.S. Co. v. Centennial Ins. Co.*, 117 Wn.2d, 37, 52 (1991).

